

PLANNING COMMISSION MINUTES OF JULY 24, 2006

2006-0627 – Calstone/Peninsula Building Supply [Applicant] **JJ & W, LLC** [Owner]: Application for a Variance from Sunnyvale Municipal Code section 19.42.030 (maximum allowable noise level for an industrial business.) The property is located at **1155 and 1175 Aster Avenue** (near Willow Avenue) in an M-3/ITR/R-3/PD (General Industrial/Industrial to Residential/Medium Density Residential/Planned Development) Zoning District. (Mitigated Negative Declaration) (APN: 213-01-017) SL

Steve Lynch, Senior Planner, presented the staff report. He said staff was able to make the findings and is recommending approval of the Variance subject to the Conditions of Approval (COAs).

Vice Chair Sulser referred to page two of the report regarding the apartment complex that was approved in 1984 that is adjacent to the industrial site. He asked staff about the difference of communicating to buyers versus renters about residing adjacent to the industrial businesses. **Trudi Ryan**, Planning Officer, said a difference between the recently approved residential developments and the existing apartment complex is that the apartments are rental units and new tenants can be advised about the adjacent industrial uses when they apply to rent an apartment. The recently approved residential units on Aster will be ownership units and owners can be informed through the Conditions, Covenants and Restrictions (CC&Rs) about the special situation of living in an Industrial to Residential (ITR) area. Vice Chair Sulser referred to Attachment A, Finding 1 commenting that it is unusual to see a finding based on the uniqueness of a use and asked what the Planning Commission should be looking at to determine if Finding 1 is met. Mr. Lynch confirmed that the Planning Commission would need to find that Calstone and Peninsula Building Supplies were unique uses. He said staff finds that Calstone is unique as there are no other businesses like Calstone in Sunnyvale.

Comm. Rowe referred to page seven of the report, "Mitigation Measure 2)" regarding recessing the gate guide to below the asphalt grade to help prevent noise. She commented that a recessed gate guide may still cause noise and asked staff if it were possible to make the area level with the asphalt. Mr. Lynch said the grade and dip already exist on site for drainage and the idea of moving the gate would be to slow the trucks as they come across the driveway as some of the empty trucks are bouncing and making noise as they exit. Ms. Ryan added that making the area level could have issues with potential settling and that possibly the acoustical engineer could address this issue.

Chair Klein opened the public hearing.

Nick Petredis, attorney representing the applicant, commented that last time the applicant appeared before the Planning Commission was in connection with the KB Homes application on June 12, 2006. He said that he is pleased to report that since then a lot of cooperation has resulted between the parties involved resulting in the request for the Variance being on the agenda tonight. He said they have no problem with the staff report or the conditions if the Planning Commission decides to approve the Variance. He said the noise survey was provided in a very timely manner, and Michael Thill from Illingworth & Rodkin, Inc. is available this evening for any questions.

Matt Morey, the applicant, thanked staff and the Planning Commission for hearing this item so quickly. He said they are a small family business with many employees and he is glad they have a chance to ensure the employees' continued livelihood through their business. He asked the Planning Commission to approve the Variance, subject to the COAs, on behalf of Calstone and their employees. Mr. Morey referred to Comm. Rowe's question about recessing the gate guide and said that the guide is a 1 ½ inch piece of angled iron that the gate rolls on that would be recessed.

Vidyadhar Chitradurga, a resident of Sunnyvale, lives on Aster Avenue in an apartment that is across from the applicant's property. He said between Calstone and Caltrain he and his family have had many sleepless nights due to the constant noise. He said his biggest concern is the air quality as his baby has had to be on a nebulizer and he has noticed that there are traces of cement dust on his vehicle. He said he would like the City to inspect this area more.

Ms. Ryan commented that the application being considered this evening is strictly regarding noise. She said if the Planning Commission feels there is a connection between the air quality and the noise concerns that the speaker's concerns could be addressed, but the existing use permit has addressed the other concerns.

Mr. Morey said he had nothing further to add to earlier comments, but is available to answer any questions.

Chair Klein closed the public hearing.

Comm. Babcock moved for Alternative 1 to adopt the Mitigated Negative Declaration and approve the Variance with the attached conditions. Comm. Simons seconded the motion.

Comm. Babcock thanked staff for expediting this application. She said this issue has exceptional circumstances and that she is glad the issue is now clarified so Calstone and Peninsula Building Supplies can stay in business and stay in Sunnyvale. She said she was impressed with Calstone and Peninsula Building Supplies for their willingness to suggest their own noise mitigation.

Comm. Rowe thanked staff for the excellent report and said she would be supporting the motion. She said she agrees with Comm. Babcock and that she is satisfied that the applicant has worked with the Planning Division and mitigated the noise problems. She said she has long been concerned with the encroachment of industrial areas by non-industrial uses, but feels the parties involved have worked out a compromise that is a win-win situation for both.

Vice Chair Sulser said he would not be supporting the motion, as he cannot make Finding 2. He said he feels that granting the variance does impact the surrounding properties.

Comm. Simons said he would be supporting the motion. He said if there were an existing residential area and an applicant wanted to put in a stone or cement working facility use that he would not be able to support that, but because the applicants have been at this site for decades, he will support the Variance. He said that he feels it was a mistake not to address noise mitigation when the ITR process went through. He said he believes the intent of the ITR process was to build residential in an industrial area and make the residential development provide the noise mitigation. He said he is glad this has been a quick process and he would like to see it go through.

Chair Klein said he would be supporting motion and commended staff on a good report. He also commended the applicant for working with the neighbors and the developers to cover this issue that was overlooked many years ago.

ACTION: Comm. Babcock made a motion on 2006-0627 to adopt the Mitigated Negative Declaration and approve the Variance with the attached conditions. Comm. Simons seconded. Motion carried 6-1, Vice Chair Sulser dissenting.

APPEAL OPTIONS: This item is final unless appealed to the City Council no later than August 8, 2006.